

# EXHIBIT F

# RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Gore, John M. <jmgore@jonesday.com>

Fri 9/23/2022 3:46 PM

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Elena:

Thanks for following up. We note that the Fifth Circuit has stayed all discovery in these matters until September 29. Nonetheless, we are happy to provide you an update on our discovery efforts.

This is the first time we are hearing of any issues with our interrogatory responses, which we served on August 12. As you note, 6 of our responses to your 10 interrogatories indicate that we will identify documents responsive to those interrogatories. Those responses are appropriate: the interrogatories specifically asked us to “[i]dentify (including by Bates number if or once assigned)” any such documents.

In any event, our August 29 letter already identified custodians for 4 of the 5 GOP intervenors. We have begun collecting documents from all 5 intervenors and loading them into our review platform. We expect be in a position shortly after the stay expires to provide you dates certain for identifying custodians for the remaining intervenor and for sharing our search terms.

As we mentioned in our August 29 letter, we are not yet in an informed position to accept or decline Plaintiffs’ proposal regarding the existing protective orders because we are still collecting and reviewing documents. We therefore are unable to determine at this juncture whether the existing protective orders are adequate to protect our clients’ interests. As we promised, we will inform you of our position on that proposal as soon as we are able to do so.

Finally, like many members of your team, our team is heading to trial in another matter over the next several weeks. The discovery schedule in this case already contemplates all parties’ counsel’s conflicting trial schedules.

Please let us know if you would like to discuss this further.

Thanks,  
John

John M. Gore  
Partner

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

We are in receipt of your August 29 letter concerning document production and your August 12 Responses and Objections to Plaintiffs' First Set of Interrogatories. We write to better understand the status of the GOP Intervenor's collection and review of documents in this matter.

Plaintiffs first served requests for production on the GOP Intervenor's over two months ago. Nonetheless, your correspondence reflects that the GOP Intervenor's collection and review of documents remains at a very preliminary stage and that you have not yet collected documents from your clients, never mind begun producing any documents in response to our two-month-old requests. At the same time, your responses to our First Set of Interrogatories reflect that you intend to address most of our interrogatories by identifying documents that have not been produced to us.

To keep discovery moving forward, please provide us this week with dates certain for when you will provide proposed custodians for each GOP Intervenor and proposed search terms for collecting documents from these custodians. Please also indicate whether GOP Intervenor's intend to accept or decline Plaintiffs' proposal regarding the existing protective orders.

We are glad to make ourselves available to discuss any of these issues.

Best regards,

Elena

**Elena Rodriguez Armenta** (she/her)

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Counsel,

Attached please find discovery correspondence regarding the meet and confer held on August 11, 2022. Please let us know if you would like to discuss.

Best,  
Chuck

--

Chuck Roberts  
Associate

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**Subject:** LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

Attached please find discovery correspondence memorializing the meet and confer held on August 11, 2022, regarding GOP Intervenor's Responses and Objections to Plaintiffs' First Set of Requests for Production. Please let us know if you would like to discuss.

All the best,

Elena

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Litigation Associate\*

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# RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

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Mon 10/3/2022 9:14 PM

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Kathryn:

We have received your letter.

Since you received my September 23 email, you are aware that I am in trial in another matter for the next two weeks. The Court's discovery schedule specifically contemplated accommodating the various counsel's trial schedules on other matters this fall.

Moreover, your request for a meet-and-confer regarding privilege issues is premature for the reasons we already have explained. We are still working on your prior requests to identify the remaining custodians and search terms. Resolving those issues will obviously affect the scope and scale of our document review, as well as of the privilege issues implicated by your broad requests. We will be in a more informed position to engage with you on privilege issues at that point.

Thanks,  
John

John M. Gore  
Partner

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**From:** Kathryn Sadasivan <ksadasivan@naacpldf.org>

**Sent:** Monday, October 3, 2022 9:09 AM

**To:** Gore, John M. <jmgore@jonesday.com>; Elena Rodriguez Armenta <erodriguezarmenta@elias.law>; Roberts, Charles E. <cetroberts@jonesday.com>

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

We have received your email on September 23 and your letter dated August 29. We write to follow up on and better understand GOP Intervenors' claims of privilege in this matter. To do so, we think it appropriate to conduct another meet and confer this week, the week of October 3, 2022. As you know, the scheduling order contemplates the deadline for completion of discovery on matters related to the primary election as to Intervenors on October 24, 2022.

GOP Intervenors' have articulated general objections to producing documents based on legislative privilege, First Amendment associational privilege, and other privileges but have not objected to any specific request for production of documents based on a claim of privilege. This makes any failure to produce a privilege log particularly inappropriate. In our initial meet and confer on August 11, as well as in Plaintiffs' August 19 correspondence, Plaintiffs expressed specific concern over the GOP Intervenors' privilege-related objections. In the August 11 meet and confer, GOP Intervenors explained that because you were in the early stages of document collection and review, you were not aware of how voluminous the documents withheld under claims of privilege would be, but indicated that you anticipated many First Amendment privilege claims in particular. GOP intervenors' letter dated August 29 stated that "Intervenors do not yet know the size or scope of the document collection or the extent to which potentially responsive documents might implicate First Amendment or other privileges." In GOP Intervenors' September 23 correspondence, you again noted that GOP Intervenors "are still collecting and reviewing documents" and remain "unable to determine at this juncture whether the existing protective orders are adequate to protect our clients' interests." Plaintiffs served their requests for production on GOP Intervenors on June 1, 2022, approximately four months ago.

GOP Intervenors have thus far failed to clarify your position with respect to the general objections on the basis of privilege and to the production of a privilege log. Plaintiffs reiterate the requirement of an opportunity to assess these privilege claims on a document-by-document basis, as required by Federal Rule of Civil Procedure Rule 26(b) and the ESI Order entered in this case.

Intervenors' delay in assessing claims of privilege will almost certainly result in discovery delays. Given the already lengthy delays on the part of GOP Intervenors, we request a meet and confer this week, possibly either October 6 or 7, 2022, to avoid the time, costs, and delays associated with unnecessary discovery motions.

Regards,  
Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

**From:** Gore, John M. <[jmgore@jonesday.com](mailto:jmgore@jonesday.com)>

**Sent:** Friday, September 23, 2022 4:47 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Elena:

Thanks for following up. We note that the Fifth Circuit has stayed all discovery in these matters until September 29. Nonetheless, we are happy to provide you an update on our discovery efforts.

This is the first time we are hearing of any issues with our interrogatory responses, which we served on August 12. As you note, 6 of our responses to your 10 interrogatories indicate that we will identify documents responsive to those interrogatories. Those responses are appropriate: the interrogatories specifically asked us to "[i]dentify (including by Bates number if or once assigned)" any such documents.

In any event, our August 29 letter already identified custodians for 4 of the 5 GOP intervenors. We have begun collecting documents from all 5 intervenors and loading them into our review platform. We expect be in a position shortly after the stay expires to provide you dates certain for identifying custodians for the remaining intervenor and for sharing our search terms.

As we mentioned in our August 29 letter, we are not yet in an informed position to accept or decline Plaintiffs' proposal regarding the existing protective orders because we are still collecting and reviewing documents. We therefore are unable to determine at this juncture whether the existing protective orders are adequate to protect our clients' interests. As we promised, we will inform you of our position on that proposal as soon as we are able to do so.

Finally, like many members of your team, our team is heading to trial in another matter over the next several weeks. The discovery schedule in this case already contemplates all parties' counsel's conflicting trial schedules.

Please let us know if you would like to discuss this further.

Thanks,  
John

John M. Gore  
Partner

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**Sent:** Monday, September 19, 2022 12:16 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

We are in receipt of your August 29 letter concerning document production and your August 12 Responses and Objections to Plaintiffs' First Set of Interrogatories. We write to better understand the status of the GOP Intervenor's collection and review of documents in this matter.

Plaintiffs first served requests for production on the GOP Intervenor's over two months ago. Nonetheless, your correspondence reflects that the GOP Intervenor's collection and review of documents remains at a very preliminary stage and that you have not yet collected documents from your clients, never mind begun producing any documents in response to our two-month-old requests. At the same time, your responses to our First Set of Interrogatories reflect that you intend to address most of our interrogatories by identifying documents that have not been produced to us.

To keep discovery moving forward, please provide us this week with dates certain for when you will provide proposed custodians for each GOP Intervenor and proposed search terms for collecting documents from these custodians. Please also indicate whether GOP Intervenor's intend to accept or decline Plaintiffs' proposal regarding the existing protective orders.



We are glad to make ourselves available to discuss any of these issues.

Best regards,

Elena

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Counsel,

Attached please find discovery correspondence regarding the meet and confer held on August 11, 2022. Please let us know if you would like to discuss.

Best,  
Chuck

--

Chuck Roberts  
Associate

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**Subject:** LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

Attached please find discovery correspondence memorializing the meet and confer held on August 11, 2022, regarding GOP Intervenor's Responses and Objections to Plaintiffs' First Set of Requests for Production. Please let us know if you would like to discuss.

All the best,

Elena

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Litigation Associate\*

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# RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

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Fri 10/7/2022 4:24 PM

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Kathryn:

We disagree with you on several points.

First, you misread the scheduling order. The October 24 deadline pertains to discovery served by Intervenor, including the requests we served on plaintiffs on September 19.

Second, we have been working in good faith to respond to your broad discovery demands. That included participating in a prior meet-and-confer and providing you an update on our discovery efforts while the Fifth Circuit's stay of discovery was pending. Nonetheless, you have now changed course and insisted upon raising unripe privilege log issues—which you previously agreed to resolve after document discovery had taken shape—at a time we had informed you our team was in trial on another matter.

Moreover, you did not indicate an interest in deposing any individuals associated with Intervenor before your deadline for discovery related to the primary election. See ECF No. 437 (setting August 12, 2022 deadline for “discovery related to the primary election as to Plaintiffs, State Defendants, and County Defendants”). Instead, today—long after that deadline expired—you have made your first request to depose numerous individuals. Even if your reading of the October 24 date in the scheduling order were correct, your request for depositions comes far too late.

Third, given these various timing issues and that trial in this matter will not commence until next summer, there is no need to insist on a meet-and-confer this week when we and other lawyers on the case are in trial.

We propose that we convene a meet-and-confer on Monday, October 17 (the first business day after our team's trial ends) to discuss various discovery issues.

We hope we can work through these matters in a cooperative and professional manner.

John

John M. Gore  
Partner

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**From:** Kathryn Sadasivan <ksadasivan@naacpldf.org>

**Sent:** Wednesday, October 5, 2022 6:22 PM

**To:** Gore, John M. <jmgore@jonesday.com>; Elena Rodriguez Armenta <erodriguezarmenta@elias.law>; Roberts, Charles E. <cetroberts@jonesday.com>

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

Thank you for your email response on October 3, 2022, to Plaintiffs' request to meet and confer to discuss GOP Intervenor's anticipated production of documents responsive to consolidated Plaintiffs' Requests for Production and Interrogatories and particularly your broad claims of privilege. We understand that you are declining to meet and confer with us this week because of your trial schedule. As you note, the Court's scheduling order contemplates accommodating counsel's trial schedules; however, the scheduling order also specifically provides that October 24, 2022 is the last day of discovery for matters related to the primary elections as to the GOP Intervenor. The close of that phase of discovery is now less than three weeks away, and the GOP Intervenor has not produced any responsive documents. Indeed, you have not shared your proposed search terms with us, nor have you identified all relevant custodians nor explicated your broad claims of privilege for which you plan to withhold documents and possibly a privilege log.

Given your scheduling conflicts and the time you appear to need to get your searches underway, assess the documents in your possession, and evaluate claims of privilege, we ask that you file an unopposed motion to amend the current

scheduling order, changing the close of discovery as to matters related to the primary elections from October 24, 2022 to March 17, 2023, the date for completion of fact discovery as to matters related to the general election, noting that the discovery to be given going forward by the GOP Intervenors will now include the general election as well as all previous topics. We believe that proceeding in this manner will allow a more efficient, effective, and streamlined discovery process as to GOP intervenors.

Of course, we were planning, under the current deadline, to depose a number of individuals employed by the GOP intervenors during the coming weeks. Given your non-compliance with discovery to date, and your communication on October 3, 2022, please let us know as soon as possible when you will file the motion to amend the scheduling order. Relatedly, do you anticipate defending the depositions of Melissa Conway, Alan Vera, Cindy Siegel, Susan Fountain, and Byron Fisher in their individual capacities? We plan to notice the 30(b)(1) depositions of these and possibly other individuals within GOP Intervenors' organizations. Are you willing to accept service of process, electronically, on behalf of these individuals?

Thank you for your prompt response.

Sincerely,

Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

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**From:** Gore, John M. <[jmgore@jonesday.com](mailto:jmgore@jonesday.com)>

**Sent:** Monday, October 3, 2022 10:15 PM

**To:** Kathryn Sadasivan <[ksadasivan@naacpldf.org](mailto:ksadasivan@naacpldf.org)>; Elena Rodriguez Armenta <[erodriguezarmenta@elias.law](mailto:erodriguezarmenta@elias.law)>; Roberts, Charles E. <[cetroberts@jonesday.com](mailto:cetroberts@jonesday.com)>

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Kathryn:

We have received your letter.

Since you received my September 23 email, you are aware that I am in trial in another matter for the next two weeks. The Court's discovery schedule specifically contemplated accommodating the various counsel's trial schedules on other matters this fall.

Moreover, your request for a meet-and-confer regarding privilege issues is premature for the reasons we already have explained. We are still working on your prior requests to identify the remaining custodians and search terms. Resolving those issues will obviously affect the scope and scale of our document review, as well as of the privilege issues implicated by your broad requests. We will be in a more informed position to engage with you on privilege issues at that point.

Thanks,  
John

John M. Gore  
Partner

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**Sent:** Monday, October 3, 2022 9:09 AM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

We have received your email on September 23 and your letter dated August 29. We write to follow up on and better understand GOP Intervenor's claims of privilege in this matter. To do so, we think it appropriate to conduct another meet and confer this week, the week of October 3, 2022. As you know, the scheduling order contemplates the deadline for completion of discovery on matters related to the primary election as to Intervenor on October 24, 2022.

GOP Intervenor's have articulated general objections to producing documents based on legislative privilege, First Amendment associational privilege, and other privileges but have not objected to any specific request for production of documents based on a claim of privilege. This makes any failure to produce a privilege log particularly inappropriate. In our initial meet and confer on August 11, as well as in Plaintiffs' August 19 correspondence, Plaintiffs expressed specific concern over the GOP Intervenor's privilege-related objections. In the August 11 meet and confer, GOP Intervenor explained that because you were in the early stages of document collection and review, you were not aware of how voluminous the documents withheld under claims of privilege would be, but indicated that you anticipated many First Amendment privilege claims in particular. GOP intervenor's letter dated August 29 stated that "Intervenor do not yet know the size or scope of the document collection or the extent to which potentially responsive documents might implicate First Amendment or other



privileges.” In GOP Intervenors’ September 23 correspondence, you again noted that GOP Intervenors “are still collecting and reviewing documents” and remain “unable to determine at this juncture whether the existing protective orders are adequate to protect our clients’ interests.” Plaintiffs served their requests for production on GOP Intervenors on June 1, 2022, approximately four months ago.

GOP Intervenors have thus far failed to clarify your position with respect to the general objections on the basis of privilege and to the production of a privilege log. Plaintiffs reiterate the requirement of an opportunity to assess these privilege claims on a document-by-document basis, as required by Federal Rule of Civil Procedure Rule 26(b) and the ESI Order entered in this case.

Intervenors’ delay in assessing claims of privilege will almost certainly result in discovery delays. Given the already lengthy delays on the part of GOP Intervenors, we request a meet and confer this week, possibly either October 6 or 7, 2022, to avoid the time, costs, and delays associated with unnecessary discovery motions.

Regards,  
Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

**From:** Gore, John M. <[jmgore@jonesday.com](mailto:jmgore@jonesday.com)>

**Sent:** Friday, September 23, 2022 4:47 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Elena:

Thanks for following up. We note that the Fifth Circuit has stayed all discovery in these matters until September 29. Nonetheless, we are happy to provide you an update on our discovery efforts.

This is the first time we are hearing of any issues with our interrogatory responses, which we served on August 12. As you note, 6 of our responses to your 10 interrogatories indicate that we will identify documents responsive to those interrogatories. Those responses are appropriate: the interrogatories specifically asked us to “[i]dentify (including by Bates number if or once assigned)” any such documents.

In any event, our August 29 letter already identified custodians for 4 of the 5 GOP intervenors. We have begun collecting documents from all 5 intervenors and loading them into our review platform. We expect be in a position shortly after the stay expires to provide you dates certain for identifying custodians for the remaining intervenor and for sharing our search terms.

As we mentioned in our August 29 letter, we are not yet in an informed position to accept or decline Plaintiffs’ proposal regarding the existing protective orders because we are still collecting and reviewing documents. We therefore are unable to determine at this juncture whether the existing protective orders are adequate to protect our clients’ interests. As we promised, we will inform you of our position on that proposal as soon as we are able to do so.

Finally, like many members of your team, our team is heading to trial in another matter over the next several weeks. The discovery schedule in this case already contemplates all parties’ counsel’s conflicting trial schedules.

Please let us know if you would like to discuss this further.

Thanks,  
John

John M. Gore  
Partner

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**Sent:** Monday, September 19, 2022 12:16 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

We are in receipt of your August 29 letter concerning document production and your August 12 Responses and Objections to Plaintiffs' First Set of Interrogatories. We write to better understand the status of the GOP Intervenor's collection and review of documents in this matter.

Plaintiffs first served requests for production on the GOP Intervenor over two months ago. Nonetheless, your correspondence reflects that the GOP Intervenor's collection and review of documents remains at a very preliminary stage and that you have not yet collected documents from your clients, never mind begun producing any documents in response to our two-month-old requests. At the same time, your responses to our First Set of Interrogatories reflect that you intend to address most of our interrogatories by identifying documents that have not been produced to us.

To keep discovery moving forward, please provide us this week with dates certain for when you will provide proposed custodians for each GOP Intervenor and proposed search terms for collecting documents from these custodians. Please also indicate whether GOP Intervenor intends to accept or decline Plaintiffs' proposal regarding the existing protective orders.

We are glad to make ourselves available to discuss any of these issues.

Best regards,

Elena

**Elena Rodriguez Armenta** (she/her)

Litigation Associate\*

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**From:** Roberts, Charles E. <[cetroberts@jonesday.com](mailto:cetroberts@jonesday.com)>

**Sent:** Monday, August 29, 2022 5:10 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Counsel,

Attached please find discovery correspondence regarding the meet and confer held on August 11, 2022. Please let us know if you would like to discuss.

Best,  
Chuck

--

Chuck Roberts

Associate

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**Subject:** LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

Attached please find discovery correspondence memorializing the meet and confer held on August 11, 2022, regarding GOP Intervenor's Responses and Objections to Plaintiffs' First Set of Requests for Production. Please let us know if you would like to discuss.

All the best,

Elena

**Elena Rodriguez Armenta** (she/her)

Litigation Associate\*

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# RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Gore, John M. <jmgore@jonesday.com>

Wed 10/12/2022 9:07 PM

To: Kathryn Sadasivan <ksadasivan@naacpldf.org>; Elena Rodriguez Armenta <erodriguezarmenta@elias.law>; Roberts, Charles E. <cetroberts@jonesday.com>;

Cc: Victor Genecin <vgenecin@naacpldf.org>; Uruj Sheikh <usheikh@naacpldf.org>; Jasleen Singh <singhj@brennan.law.nyu.edu>; Kenny, Stephen J. <skenny@jonesday.com>; Crosland, Stewart <scrosland@jonesday.com>; Barbara Nicholas <Barbara.Nicholas@dallascounty.org>; daniel.freeman@usdoj.gov <daniel.freeman@usdoj.gov>; Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; michael.stewart3@usdoj.gov <michael.stewart3@usdoj.gov>; jennifer.yun@usdoj.gov <jennifer.yun@usdoj.gov>; dana.paikowsky@usdoj.gov <dana.paikowsky@usdoj.gov>; Tiffani Soo-Tim <Tiffani.Soo-Tim@usdoj.gov>; Lauren Putnam <Lauren.Putnam@usdoj.gov>; Sean Morales-Doyle <morales-doyle@brennan.law.nyu.edu>; Patrick Berry <berryp@brennan.law.nyu.edu>; Eliza Sweren-Becker <sweren-beckere@brennan.law.nyu.edu>; William Wilder <wilderw@brennan.law.nyu.edu>; Megan Cloud <Megan.Cloud@weil.com>; samantha.smith@weil.com <samantha.smith@weil.com>; Nina Perales <nperales@MALDEF.org>; Julia Longoria <Jlongoria@MALDEF.org>; Keats, Michael <michael.keats@friedfrank.com>; Williams, Breanna <breanna.williams@friedfrank.com>; kevin.zhen@friedfrank.com <kevin.zhen@friedfrank.com>; Jason Kanterman <Jason.Kanterman@friedfrank.com>; Martin, Rebecca <rebecca.martin@friedfrank.com>; Uzoma Nkwonta <unkwonta@elias.law>; Graham White <gwhite@elias.law>; Mike Jones <mjones@elias.law>; Marcos Mocine-McQueen <mmcqueen@elias.law>; Noah Baron <nbaron@elias.law>; johnhardin@perkinscoie.com <johnhardin@perkinscoie.com>; Zachary TX <zachary@texascivilrightsproject.org>; S Chen <schen@texascivilrightsproject.org>; hani@texascivilrightsproject.org <hani@texascivilrightsproject.org>; Chris TX <chris@texascivilrightsproject.org>; Jerry Vattamala <jvattamala@aaldef.org>; Susana Lorenzo-Giguere <slorenzo-giguere@aaldef.org>; Patrick Stegemoeller <pstegemoeller@aaldef.org>; aharris@aclutx.org <aharris@aclutx.org>; tbuser-clancy@aclutx.org <tbuser-clancy@aclutx.org>; skumar@aclutx.org <skumar@aclutx.org>; A Trepp <atrepp@jenner.com>; ldavis@drtx.org <ldavis@drtx.org>; lromano@drtx.org <lromano@drtx.org>; mmcnaair@drtx.org <mmcnaair@drtx.org>; Adriel I. 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Kathryn:

We look forward to speaking with you on Monday at 2pm ET. We will circulate Microsoft Teams information for that meeting.

It is not productive to belabor the point, but your email highlights that your discovery requests strike at Intervenor's First Amendment rights. As we discussed on our prior call, the political activities Intervenor's engage in (and that you have quoted) are all subject to robust First Amendment protection. That protection has not been waived or lost by Intervenor's involvement in this litigation. *See Perry v. Schwarzenegger*, 591 F.3d 1147, 1163 (9th Cir. 2010). Any right to discovery your clients have does not extend to materials protected from disclosure by the Constitution.

On the topic of depositions, I note that we identified Susan Fountain as a custodian in our August 11 letter. Moreover, your implication that we ignored your request is false; instead, we have been working on an answer. In any event, we have raised the issue of depositions but do not yet have an answer on whether we can accept service for the individuals you named. We do ask you to refrain from serving subpoenas on anyone affiliated with our clients until we have had a chance to confer on the issue and the discovery schedule more broadly.

In that vein, it would also be helpful for you to be prepared to discuss a timeline on various discovery issues on Monday. We are open to considering reasonable proposals regarding the schedule for pending discovery requests.

Talk to you on Monday,  
John

John M. Gore  
Partner

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**From:** Kathryn Sadasivan <ksadasivan@naacpldf.org>

**Sent:** Tuesday, October 11, 2022 2:38 PM

**To:** Gore, John M. <jmgore@jonesday.com>; Elena Rodriguez Armenta <erodriguezarmenta@elias.law>; Roberts, Charles E. <cetroberts@jonesday.com>

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

We disagree with your reading of the scheduling order. We understand the Court's language setting October 24, 2022, as "[t]he deadline for completion of discovery on matters related to the primary election as to Intervenor" to mean discovery sought by or sought from Intervenor. (ECF No. 437 at 1.) We do not believe the Court intended a period of one-way discovery during which the Intervenor would be the only parties that could seek discovery between August 12 and October 24, 2022.

Even under your interpretation of the order, however, we have endeavored to comply to the fullest extent. Consolidated Plaintiffs served requests for production on GOP intervenors on July 7, 2022, and interrogatories on July 13, 2022, well before August 12, 2022. In the three months since then, Intervenor has failed to identify all relevant custodians, have failed to share your proposed search terms, produce a single document, and have failed to explain your broad claims of privilege. Nor have Intervenor indicated whether any documents are being withheld based on your objections or claims of privilege.

Further, in response to many of our interrogatories, you have simply responded that "[s]ubject to and without waiving any of the foregoing objections, the Republican Committees will identify by Bates number any documents responsive to this Interrogatory that they produce in this litigation." And of course, you have not produced any documents responsive to our RFPs.

Your correspondence on Friday October 7, 2022, refusing a meet and confer until October 17, continues this dilatory trend, and frustrates Plaintiffs attempt to complete discovery by October 24, 2022.

GOP Intervenor voluntarily sought intervention in this case because of the committees' articulated interests in SB 1 and involvement in election administration matters at issue in this case. You have claimed, indeed, that the local chapters of the Republican Committees including in Harris and Dallas Counties, make "significant contributions and expenditures to support Republican candidates" in Texas's elections, primarily by "devoting substantial resources towards educating, mobilizing, assisting, training, and turning out voters, volunteers, and poll watchers" in their respective counties. *LUPE v. Abbott*, 29 F.4th 299 (5th Cir. 2022) (Appellants' Opening Br. 3-9, Dec. 20, 2021).

As you articulated before the Fifth Circuit, and as recognized by the Fifth Circuit in granting your motion to intervene, the national chapter committees do much the same on the national level, but also provide resources to local Republican-affiliated groups in Texas. (Appellants' Opening Br. 5, Dec. 20, 2021) ("The RNC has made significant contributions and expenditures in support of Republican candidates up and down the ballot and in mobilizing voters and volunteers in Texas in the past many election cycles and is already doing so again for the 2022 election cycle").

In short, you have intervened in this case based on claims of your clients' substantial involvement in the elections, about which we are entitled seek discovery. Your refusal to comply with your discovery obligations cannot now serve as a basis for a claim that Plaintiffs' should have tested your claims already, nor to create delay or unnecessary emergency when you have had months to comply with the discovery obligations of parties to litigation.

We therefore disagree that it is premature to discuss the Intervenor's broad claims of privilege. To the extent that Intervenor are unready to engage with Plaintiffs on this subject, it is only due to your delay in identifying custodians and search terms and determining the scope of your document review that will may inform the discussion of privilege.

We also disagree that Plaintiffs are out of time to depose new individuals. The Court's scheduling order specifies that "discovery during the primary election discovery period may include discovery from witnesses both already and newly disclosed by Intervenor." (ECF. No. 437 at 1). It is nearly impossible, however, to discover the identifies of previously unknow witnesses or to prepare for depositions of witnesses whose identities are known to us when Intervenor have produced no documents.

Nevertheless, given the rapidly approaching October 24 deadline, we plan to notice the 30(b)(1) depositions of Melissa Conway, Alan Vera, Cindy Siegel, Susan Fountain, and Byron Fisher, persons known to us from publicly available information, and not from any disclosure by your clients. To our knowledge, all these individuals hold positions with the Intervenor parties. You have not replied to our query on October 5, 2022, about whether you will accept service of deposition notices on behalf of these individuals. Please let us know by October 12, 2022. Otherwise, we will proceed to serve these individuals by process server.

We continue to be willing to agree to an extension of the current scheduling order, changing the close of discovery as to matters related to the primary elections from October 24, 2022, to March 17, 2023, the date for completion of fact discovery as to matters related to the general election. We anticipate such an extension will be necessary given the status of Intervenor's document searches and nonexistent production. Amending the deadlines to coincide will also prevent Plaintiffs from having to reopen the depositions of the above witnesses to question them about the general election, saving you and them time and associated costs.

Noting our objections and disagreement above, we agree to a meet and confer on Monday, October 17, 2022. We are available between 12:00 pm – 3:00 pm, and 3:30 pm - 4:45 pm EST. Please let us know when therein works for you.

Please also respond as to whether you will represent Melissa Conway, Alan Vera, Cindy Siegel, Susan Fountain, and Byron Fisher in their individual capacities and whether you will accept service of process on their behalf by October 12, 2022.

Regards,

Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

**From:** Gore, John M. <[jmgore@jonesday.com](mailto:jmgore@jonesday.com)>

**Sent:** Friday, October 7, 2022 5:25 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Kathryn:

We disagree with you on several points.

First, you misread the scheduling order. The October 24 deadline pertains to discovery served by Intervenor, including the requests we served on plaintiffs on September 19.

Second, we have been working in good faith to respond to your broad discovery demands. That included participating in a prior meet-and-confer and providing you an update on our discovery efforts while the Fifth Circuit's stay of discovery was pending. Nonetheless, you have now changed course and insisted upon raising unripe privilege log issues—which you previously agreed to resolve after document discovery had taken shape—at a time we had informed you our team was in trial on another matter.

Moreover, you did not indicate an interest in deposing any individuals associated with Intervenor before your deadline for discovery related to the primary election. See ECF No. 437 (setting August 12, 2022 deadline for “discovery related to the primary election as to Plaintiffs, State Defendants, and County Defendants”). Instead, today—long after that deadline expired—you have made your first request to depose numerous individuals. Even if your reading of the October 24 date in the scheduling order were correct, your request for depositions comes far too late.

Third, given these various timing issues and that trial in this matter will not commence until next summer, there is no need to insist on a meet-and-confer this week when we and other lawyers on the case are in trial.

We propose that we convene a meet-and-confer on Monday, October 17 (the first business day after our team's trial ends) to discuss various discovery issues.

We hope we can work through these matters in a cooperative and professional manner.

John

John M. Gore  
Partner

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

Thank you for your email response on October 3, 2022, to Plaintiffs' request to meet and confer to discuss GOP Intervenor's anticipated production of documents responsive to consolidated Plaintiffs' Requests for Production and Interrogatories and particularly your broad claims of privilege. We understand that you are declining to meet and confer with us this week because of your trial schedule. As you note, the Court's scheduling order contemplates accommodating counsel's trial schedules; however, the scheduling order also specifically provides that October 24, 2022 is the last day of discovery for matters related to the primary elections as to the GOP Intervenor. The close of that phase of discovery is now less than three weeks away, and the GOP Intervenor has not produced any responsive documents. Indeed, you have not shared your proposed search terms with us, nor have you identified all relevant custodians nor explicated your broad claims of privilege for which you plan to withhold documents and possibly a privilege log.

Given your scheduling conflicts and the time you appear to need to get your searches underway, assess the documents in your possession, and evaluate claims of privilege, we ask that you file an unopposed motion to amend the current scheduling order, changing the close of discovery as to matters related to the primary elections from October 24, 2022 to

March 17, 2023, the date for completion of fact discovery as to matters related to the general election, noting that the discovery to be given going forward by the GOP Intervenor will now include the general election as well as all previous topics. We believe that proceeding in this manner will allow a more efficient, effective, and streamlined discovery process as to GOP intervenors.

Of course, we were planning, under the current deadline, to depose a number of individuals employed by the GOP intervenors during the coming weeks. Given your non-compliance with discovery to date, and your communication on October 3, 2022, please let us know as soon as possible when you will file the motion to amend the scheduling order. Relatedly, do you anticipate defending the depositions of Melissa Conway, Alan Vera, Cindy Siegel, Susan Fountain, and Byron Fisher in their individual capacities? We plan to notice the 30(b)(1) depositions of these and possibly other individuals within GOP Intervenor's organizations. Are you willing to accept service of process, electronically, on behalf of these individuals?

Thank you for your prompt response.

Sincerely,

Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

**From:** Gore, John M. <[jmgore@jonesday.com](mailto:jmgore@jonesday.com)>

**Sent:** Monday, October 3, 2022 10:15 PM

**To:** Kathryn Sadasivan <[ksadasivan@naacpldf.org](mailto:ksadasivan@naacpldf.org)>; Elena Rodriguez Armenta <[erodriguezarmenta@elias.law](mailto:erodriguezarmenta@elias.law)>; Roberts, Charles E. <[cetroberts@jonesday.com](mailto:cetroberts@jonesday.com)>

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Kathryn:

We have received your letter.

Since you received my September 23 email, you are aware that I am in trial in another matter for the next two weeks. The Court's discovery schedule specifically contemplated accommodating the various counsel's trial schedules on other matters this fall.

Moreover, your request for a meet-and-confer regarding privilege issues is premature for the reasons we already have explained. We are still working on your prior requests to identify the remaining custodians and search terms. Resolving those issues will obviously affect the scope and scale of our document review, as well as of the privilege issues implicated by your broad requests. We will be in a more informed position to engage with you on privilege issues at that point.

Thanks,  
John

John M. Gore  
Partner

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**From:** Kathryn Sadasivan <[ksadasivan@naacpldf.org](mailto:ksadasivan@naacpldf.org)>

**Sent:** Monday, October 3, 2022 9:09 AM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Dear John,

We have received your email on September 23 and your letter dated August 29. We write to follow up on and better understand GOP Intervenor's claims of privilege in this matter. To do so, we think it appropriate to conduct another meet and confer this week, the week of October 3, 2022. As you know, the scheduling order contemplates the deadline for completion of discovery on matters related to the primary election as to Intervenor on October 24, 2022.

GOP Intervenor's have articulated general objections to producing documents based on legislative privilege, First Amendment associational privilege, and other privileges but have not objected to any specific request for production of documents based on a claim of privilege. This makes any failure to produce a privilege log particularly inappropriate. In our initial meet and confer on August 11, as well as in Plaintiffs' August 19 correspondence, Plaintiffs expressed specific concern over the GOP Intervenor's privilege-related objections. In the August 11 meet and confer, GOP Intervenor's explained that because you were in the early stages of document collection and review, you were not aware of how voluminous the documents withheld under claims of privilege would be, but indicated that you anticipated many First Amendment privilege claims in particular. GOP intervenor's letter dated August 29 stated that "Intervenor's do not yet know the size or scope of the document collection or the extent to which potentially responsive documents might implicate First Amendment or other privileges." In GOP Intervenor's September 23 correspondence, you again noted that GOP Intervenor's "are still collecting



and reviewing documents” and remain “unable to determine at this juncture whether the existing protective orders are adequate to protect our clients’ interests.” Plaintiffs served their requests for production on GOP Intervenors on June 1, 2022, approximately four months ago.

GOP Intervenors have thus far failed to clarify your position with respect to the general objections on the basis of privilege and to the production of a privilege log. Plaintiffs reiterate the requirement of an opportunity to assess these privilege claims on a document-by-document basis, as required by Federal Rule of Civil Procedure Rule 26(b) and the ESI Order entered in this case.

Intervenors’ delay in assessing claims of privilege will almost certainly result in discovery delays. Given the already lengthy delays on the part of GOP Intervenors, we request a meet and confer this week, possibly either October 6 or 7, 2022, to avoid the time, costs, and delays associated with unnecessary discovery motions.

Regards,  
Kathryn Sadasivan  
Redistricting Counsel, NAACP Legal Defense and Educational Fund

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**Sent:** Friday, September 23, 2022 4:47 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

[Caution: EXTERNAL EMAIL]

Elena:

Thanks for following up. We note that the Fifth Circuit has stayed all discovery in these matters until September 29. Nonetheless, we are happy to provide you an update on our discovery efforts.

This is the first time we are hearing of any issues with our interrogatory responses, which we served on August 12. As you note, 6 of our responses to your 10 interrogatories indicate that we will identify documents responsive to those interrogatories. Those responses are appropriate: the interrogatories specifically asked us to "[i]dentify (including by Bates number if or once assigned)" any such documents.

In any event, our August 29 letter already identified custodians for 4 of the 5 GOP intervenors. We have begun collecting documents from all 5 intervenors and loading them into our review platform. We expect be in a position shortly after the stay expires to provide you dates certain for identifying custodians for the remaining intervenor and for sharing our search terms.

As we mentioned in our August 29 letter, we are not yet in an informed position to accept or decline Plaintiffs' proposal regarding the existing protective orders because we are still collecting and reviewing documents. We therefore are unable to determine at this juncture whether the existing protective orders are adequate to protect our clients' interests. As we promised, we will inform you of our position on that proposal as soon as we are able to do so.

Finally, like many members of your team, our team is heading to trial in another matter over the next several weeks. The discovery schedule in this case already contemplates all parties' counsel's conflicting trial schedules.

Please let us know if you would like to discuss this further.

Thanks,  
John

John M. Gore  
Partner

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**Sent:** Monday, September 19, 2022 12:16 PM

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

We are in receipt of your August 29 letter concerning document production and your August 12 Responses and Objections to Plaintiffs' First Set of Interrogatories. We write to better understand the status of the GOP Intervenor's collection and review of documents in this matter.

Plaintiffs first served requests for production on the GOP Intervenor's over two months ago. Nonetheless, your correspondence reflects that the GOP Intervenor's collection and review of documents remains at a very preliminary stage

and that you have not yet collected documents from your clients, never mind begun producing any documents in response to our two-month-old requests. At the same time, your responses to our First Set of Interrogatories reflect that you intend to address most of our interrogatories by identifying documents that have not been produced to us.

To keep discovery moving forward, please provide us this week with dates certain for when you will provide proposed custodians for each GOP Intervenor and proposed search terms for collecting documents from these custodians. Please also indicate whether GOP Intervenor intend to accept or decline Plaintiffs' proposal regarding the existing protective orders.

We are glad to make ourselves available to discuss any of these issues.

Best regards,

Elena

**Elena Rodriguez Armenta** (she/her)

Litigation Associate\*

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**Subject:** RE: LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

Counsel,

Attached please find discovery correspondence regarding the meet and confer held on August 11, 2022. Please let us know if you would like to discuss.

Best,  
Chuck

--

Chuck Roberts  
Associate

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**Subject:** LUPE v. Abbott, 5:21-cv-844 (WD Tex): Discovery Correspondence - M&C (Intervenor-Defendants)

**\*\* External mail \*\***

Counsel,

Attached please find discovery correspondence memorializing the meet and confer held on August 11, 2022, regarding GOP Intervenor's Responses and Objections to Plaintiffs' First Set of Requests for Production. Please let us know if you would like to discuss.

All the best,

Elena

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Litigation Associate\*

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